IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7349 OF 2002

Shri Ramesh Golani and Ors. ...Petitioners
Versus
Ulhasnagar Municipal Corporation
and anr. ....Respondents

N.Shimpi i.by. Sachin Dhakephalkar for the petitioners.
Mr.S.M.Kamble for respondent no.1.

CORAM: S.C.DHARMADHIKARI, J.

14th December, 2007.

P.C. :

1. The Civil Revision Application and the Writ Petition are arising out of Special Civil Suit No. 203 of 2000.

2. It appears that the inter-locutory proceedings have given rise to this Writ Petition and the Civil Revision Application.

3. Earlier, the C.R.A. was filed but subsequent to the amendment in the CPC, the same was held to be not maintainable. Permission was granted to convert it or file a Writ Petition, therefore the Writ Petition.

4. The grievance of the petitioners is that the First Respondent Corporation has proceeded to demolish partly the construction/structure which was occupied by them. Apprehending, the further demolition a suit was filed for injunction and an ad-interim order was granted but the same was not continued. The appeal has also been dismissed.

5. During the pendency of this petition, a direction was issued to implead the Developer/Builder Mr.Vinod Thakur as party Respondent no.2. He has been impleaded.

6. It appears that during the pendency of these proceedings, in view of the Ordinance promulgated by the State, an Application was made for regularisation of the subject construction.

7. After taking instructions, Mr.Kumbhakoni makes a statement that the second Respondent applied for regularisation, paid the compounding fees and the subject structure has been regularised. Since the compounding fees are now paid, formal orders are now

awaited, but the Corporation in particular has approved the proposal for regularisation.

8. This statement is made on behalf of Respondent no.2. Mr.Kamble, appearing for the first respondent states that he has no instructions.

9. Even otherwise, in the light of these developments nothing fruitful will be achieved by going into the merits of the controversy. The entire issue has become academic. In such circumstances, it would be appropriate to protect the petitioners occupation in terms of the order passed by this court and continued from time to time. In other words, until and unless the final orders on the Regularisation proposal are issued, the structure occupied by the petitioners shall not be demolished. The parties to abide by the final orders on Regularisation. The Corporation to take final decision on this Application, if penidng, within a period of three months from today. Until, then the ad-interim order will continue.

10. In the light of this, Writ Petition is

disposed off. Civil Revision Application is also disposed off. No order as to costs. However, the Corporation is at liberty to take necessary steps in accordance with law in case it proceeds to reject the request of Regularisation.

11. The Contempt Petition is on the basis that the Respondent no.2 completed construction activity at site under the garb of the ad-interim order of the Civil court. He has been issued a contempt notice by this court. Today he appears in person and tenders and unconditional apology. He submits that he being not a party to the suit and unaware of the consequences of the orders made therein, the construction activity proceeded in a bonafide manner.

12. Now that the Regularisation is also being contemplated, he prays that the contempt proceedings may be discharged and dropped. He apologies for his conduct and states that the breach/violation, if any, is not intentional. He tenders an unconditional apology to the court. He is present in the court also. In such circumstances, the Contempt Petition need not

be pursued further and is accordingly disposed off.

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